



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

TO: Members, Public Disclosure Commission

FROM: Doug Ellis
Assistant Director

DATE: September 20, 2006

SUBJECT: PETITION FOR RULEMAKING

On August 9, 2006 staff received a Petition for Rulemaking from Mr. Stefan Dobratz under the State Administrative Procedure Act (APA). Mr. Dobratz had initially requested action be taken by the Secretary of State. The Secretary of State's Office referred his inquiry to the Commission.

APA RULEMAKING PETITION PROCESS

Under RCW 34.05.330, any person may petition an agency requesting the adoption, amendment, or repeal of any rule. Within sixty days after submission of a petition, the agency shall either:

- (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or
- (b) initiate rule-making proceedings in accordance with RCW 34.05.320.

PETITION REQUEST – AMEND CHAPTER 390 WAC

Mr. Dobratz' August 9, 2006 e-mail requested the Commission amend Chapter 390-17 WAC *"to prohibit non-represented voters from contributing to local and state elections in Washington State."*

He stated that such contributions violate citizens' rights of association with elected representatives and ballot measures and that the US Supreme Court's blanket primary decision (California Democratic party et al. v. Jones, Secretary of State of California, et al.) stated a political party has protected rights of association with their candidates

under the First Amendment, therefore a citizen and voter, must have at least equal rights of association with candidates and ballot measures.

PDC staff asked him to provide additional information, including whether he was seeking new or amended rules, and any language he was proposing for such rulemaking. On September 13, 2006, Mr. Dobratz stated in part *"I am not sure what I could add. My position is that our elections are the business of the represented citizens and that they have protected rights of association. Any analysis of the issues I have raised is best performed by the Commission's staff..."*

WASHINGTON STATE'S CURRENT LAWS

The Commission's current statutes contemplate that entities outside the state of Washington would be contributors to candidates and political committees in Washington.

First, RCW 42.17.640(12), part of Initiative 134 adopted by popular vote in 1992, includes language prohibiting campaign contributions to state office candidates from "outside" sources that do not have a connection with Washington State. Section 42.17.640(12) reads:

Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

Second, Initiative 276, which was also adopted in 1972 by popular vote, also anticipated out-of-state contributors by requiring campaign finance reporting by political committees not domiciled in Washington State. RCW 42.17.093 [originally codified as RCW 42.17.090].

CONCLUSION

Mr. Dobratz' petition for rulemaking asks the Commission to amend Chapter 390-17 WAC to prohibit non-residents from making contributions in local and state elections. Staff believes implementation of this objective is beyond the Commission's current rulemaking authority because it would require statutory changes.

Attachments

Stefan Dobratz rulemaking petition e-mail
Stefan Dobratz letter to Secretary of State Sam Reed
Vicki Rippie e-mail to Mr. Dobratz